

**Procurement Procedures and Instructions
for CACFP Food Service Contracts**

**Standard Food Service Contract & Attachments
NS-404-G**

**For
Child and Adult Care Centers
Participating in the
Child and Adult Care Food Program
(CACFP)**

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Nutrition Services
Child and Adult Care Food Program
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OMB Super circular (Effective October 2015) - Title 2 Part 200 (2 CFR 200 – Sub-Part D)

7 CFR 226.6 (standard contract)	1 (p. 212 of regulation)
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Introduction to Procurement Procedures and Instructions for Food Service Contracts

NOTE: Read this instruction manual thoroughly before soliciting bids for vended food service under the Child and Adult Care Food Program. If you have questions, call Nutrition Services at (800) 731-2233 or (402) 471-2488 before soliciting bids.

You are required to use the standard Food Service Contract, NS-404-G. No other contracts will be recognized or approved.

Due Dates & Submission of the Food Service Contract

- For renewing centers, the food service contract, NS-404-G, shall be submitted as a supporting document with your CACFP agreement. These are due June 1.
- If you are contracting with a school for meals for a school-year meal service, the due date is August 15 or prior to the first date of meal service.
- For centers new to the CACFP, the food service contract, NS-404-G, is a supporting document which becomes part of the institution's application to participate in the Child and Adult Care Food Program. The contract is submitted with the Program Application and Agreement to participate in the CACFP.
- For participating centers that are changing from self-prepared meals to vended meals, the due date is 10 calendar days prior to the beginning date of the contract.

The Nebraska Department of Education shall respond to any request for approval within 10 working days of receipt.

Important reminders

- Meals may not be claimed for reimbursement if the food service contract has not been approved by the Nebraska Department of Education Nutrition Services office. Meals that are claimed inappropriately will be disallowed.
- All bids totaling \$50,000 or more must be submitted to the Nebraska Department of Education Nutrition Services for approval before you may accept and sign them.
- All bids shall be submitted to the Nebraska Department of Education Nutrition Services before accepting a bid which exceeds the lowest bid.
- Failure to submit a complete food service contract and applicable attachments will affect the effective date of the institution's CACFP agreement.
- If you are changing from vended meals to self-preparation of meals, you must notify the Nebraska Department of Education Nutrition Services prior to the change. This may be done by letter, telephone, email or fax (402) 471-4407. This notification must include the effective date of the change. Nutrition Services will inform you of additional requirements at that time.

Make sure you keep a copy of your contract and attachments on file with your CACFP paperwork.

Mail one photocopy of the completed contract and applicable attachments to:

Nutrition Services
Nebraska Department of Education
P. O. Box 94987
Lincoln, NE 68509-4987

Procurement Procedures

Section 226.2 of the Child and Adult Care Food Program (CACFP) regulations defines a **Food Service Management Company (FSMC)** as “an organization other than a public or private nonprofit school, with which an institution may contract for preparing and, unless otherwise provided for, delivering meals, with or without milk, for use in the Program.” Another type of contractor is a **vendor or supplier** which provides specific food or nonfood products.

As with all other federal funds, the primary objective of these procedures is to ensure maximum open and free competition. With the exception of FSMC (as defined above) contracts, it should be noted that all procurement contracts awarded under the CACFP may not exceed a term of one year and may not be renewed noncompetitively. FSMC contracts also may not exceed a term of one year, but may be renewed noncompetitively for up to four years.

Contracting with a school

Institutions that contract for meals from a school food authority (SFA) are exempt from these procedures to the extent that contracts with SFAs may be procured noncompetitively. This means you may contract with a school that participates in the National School Lunch Program without soliciting or advertising for bids. If the contract exceeds \$50,000 the center must submit the contract to the Nebraska Department of Education Nutrition Services office for review before accepting the bid and signing the contract.

Competition

All procurement transactions will be conducted in a manner providing full and open competition. Some of the situations considered to be restrictive of competition include but are not limited to:

- 1) placing unreasonable requirements on firms in order for them to qualify to do business,
- 2) requiring unnecessary experience and excessive bonding,
- 3) noncompetitive pricing practices between firms or between affiliated companies,
- 4) organizational conflicts of interest,
- 5) specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and
- 6) any arbitrary action in the procurement process.

Method of Procurement

For a single contract procurement with a total value \$50,000 or less, any of the methods may be used. For a contract procurement with a total dollar value more than \$50,000, you must use one of the following methods: competitive sealed bids, competitive negotiation or non-competitive negotiation.

Small Purchase Procedure

If the contract is for \$50,000 or less, you may use the Small Purchase Procedure. The contractor is identified without formal advertising or publication. However, price or rate quotations must be obtained from an adequate number of qualified sources. These price or rate quotations must be documented and maintained on file at the institution and identified on Attachment A.

Competitive Sealed Bid

If the contract is for more than \$50,000, use a Competitive Sealed Bid (formal advertising). Sealed bids are publicly solicited by advertising in a newspaper of general circulation and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price. In order for sealed bidding to be feasible, appropriate conditions must be present, including, at a minimum, the following:

- 1) a complete, adequate and realistic specification or purchase description;
- 2) two or more responsible bidders willing and able to compete effectively for the business;
- 3) the procurement lends itself to a firm fixed-price contract, and selection of the successful bidder can appropriately be made principally based on price.

When using sealed bidding for procurement, the following requirements apply:

- 1) The contractee (CACFP institution) determines sufficient lead time, prior to the date set for opening of bids, for bids to be solicited from an adequate number of known suppliers, and the invitation to bid is publicly advertised in a newspaper of general circulation.
- 2) The invitation for bids, including specifications and pertinent attachments, clearly defines the items or services needed in order for the bidders to properly respond to the invitation.
- 3) All bids are opened publicly at the time and place stated in the invitation for bids.
- 4) A firm fixed-price contract award is made in writing to the lowest responsive and responsible bidder.
- 5) Any or all bids may be rejected by the contractee, if there is a sound documented reason.

Competitive Negotiation

The request for proposal (RFP) is advertised and proposals are requested from a number of sources. Negotiations are normally conducted with more than one of the sources submitting offers. The negotiation process may be repetitive in nature. Either a fixed-price or cost-reimbursable contract is awarded, as appropriate. Competitive negotiation may be used even if conditions are not appropriate for formal advertising.

If competitive negotiation is used for procurement, the following requirements apply:

- 1) Initial specifications are provided and proposal solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The RFP is publicized by advertising in a newspaper of general circulation and reasonable requests by other sources to compete are honored.
- 2) The RFP identifies all evaluation factors, including price or cost where required, and their relative importance to each other.
- 3) The contractee is responsible for technical evaluation of the proposals received, determination of responsible proposals for the purposes of written or oral discussion, and contract award selection.
- 4) After each round of negotiation, the specifications may be redrafted to include the best terms of each proposal. Proceed to Step 1. At such time as the proposals provide the most advantageous position for the contractee, proceed to the next step. The award is made to the responsible offeror whose proposal is most advantageous to the contractee, price and other factors considered. Unsuccessful offerors are notified promptly.

Non-competitive Negotiation

Non-competitive negotiation is used to develop terms of the contract in cases where a proposal was solicited from only one source, or in cases where proposals were solicited from multiple sources but the competition is determined

by the contractee to be inadequate. Non-competitive negotiation may be used only when the awarding of a contract is not possible under any of the other procedures (small purchase, competitive bidding with formal advertising, or competitive negotiation). Non-competitive negotiation may be used only under the following circumstances:

- 1) The item/service is available only from a single source; or
- 2) Public urgency or emergency exists which does not permit delays associated with competitive solicitation for the service; or
- 3) After solicitation of a number of sources, competition is determined inadequate by the contractee.

Sample Print Advertisement when advertising for bids

Hokey's Hideaway Inc., a licensed day care center, is soliciting bids from vendors to provide meals under the requirements of the Child and Adult Care Food Program (7 CFR 226.20). The request for proposal and bid specifications may be obtained by contacting: Jane T. Hokey, Hokey's Hideaway, 1200 Pioneer Place, Any Town, NE 68509. Telephone: (402) 555-5555. Sealed bids must be received at that address no later than April 1, 2016. Bids will be opened at 5:30 p.m. on April 2 at the same address. Proposals must remain valid for 60 days and offer firm-fixed prices for the current fiscal year.

Online Resources

The following online resources are available for CACFP Institutions, Vendors and Schools to aid in the preparation of meals that meet CACFP meal pattern requirements.

Online Resources and Publications

Crediting Foods in the Child and Adult Care Food Program, Nebraska Department of Education Nutrition Services – provides guidance on what foods may or may not be eligible as part of a reimbursable meal on the CACFP. We encourage you to share this publication with your contractor.

<https://www.education.ne.gov/ns/forms/cacfpforms/newCACFPcreditinghandbook.pdf>

Food Buying Guide for Child Nutrition Programs – U. S. Department of Agriculture - guide to quantity calculations and serving sizes

<http://www.education.ne.gov/NS/forms/cacfpforms/fbg.html>

Nebraska Food Service Contract NS-404-G and Attachments – download or print copies of this manual, contract, forms and attachments; current list of registered vendors

<http://www.education.ne.gov/NS/forms/cacfpforms/FoodContracts/index.html>

INSTRUCTIONS for filling out the contract

Section 1. If the contract is expected to be \$50,000 or more and you use the Competitive Sealed Bid or Competitive Negotiation method of procurement, assign an IFB/RFP (Invitation For Bid/Request For Bid) number and give the date, time and location of when the sealed bids will be opened.

Section 2. List the name and address of the CACFP Institution and the Contractor (FSMC, vendor, school, etc.). If the contract is less than \$50,000 the authorized representative of the CACFP institution may sign the contract and submit it to the Nebraska Department of Education Nutrition Services. Contracts exceeding an annual cost of \$50,000 must be reviewed and approved by the Nebraska Department of Education Nutrition Services before they can be signed by the CACFP institution's authorized representative. Allow 10 working days for the state agency to review a contract that exceeds \$50,000.

Section 3. Indicate the beginning and ending dates of the contract. Contracts may not exceed one year and may not cover more than one fiscal year (July 1 - June 30).

Section 4.

Table 1. Contract Cost Worksheet and Delivery Schedule

Check if the meal will include milk, the number of meals expected to be served daily, the number of days that meals will be served annually during the term of the contract, and the cost per meal. Multiply the number of meals served daily by number of days served by cost to get a subtotal for each meal. If there is a delivery charge, multiply the daily charge by the number of days that meals will be delivered. Total the numbers in the last column to get the Total Annual Cost.

Table 2. Participating Centers and Delivery Schedule

List the name and address of all centers included in this contract. Check the meals that each center will receive. Indicate the number of daily meals expected to be served, the delivery time range and the start date and ending date of service. Attach additional pages, if necessary.

Refer to the sample on the next page.

Table 1. CONTRACT COST WORKSHEET									
Complete this worksheet for meal types included in this contract.									
Meal Service	Check if Meal Includes Milk <input checked="" type="checkbox"/>	# Meals Served Daily	X	# Days Served Annually	X	Cost Per Meal	=	Total	
PARTICIPANT MEALS									
Breakfast			X		X	\$	=	\$0.00	
AM Snacks			X		X	\$	=	\$0.00	
Lunches*			X		X	\$	=	\$0.00	
• Ages 1-2			X		X	\$	=	\$0.00	
• Ages 3-5			X		X	\$	=	\$0.00	
• Ages 6-12			X		X	\$	=	\$0.00	
• Adult			X		X	\$	=	\$0.00	
PM Snacks			X		X	\$	=	\$0.00	
Suppers			X		X	\$	=	\$0.00	
EV Snack			X		X	\$	=	\$0.00	
* It is not required to obtain bids itemized by age group; this option is available for vendors using this pricing option.									
STAFF MEALS (not eligible for CACFP reimbursement, but an allowable cost)									
Breakfast			X		X	\$	=	\$0.00	
AM Snack			X		X	\$	=	\$0.00	
Lunch			X		X	\$	=	\$0.00	
PM Snack			X		X	\$	=	\$0.00	
Supper			X		X	\$	=	\$0.00	
EV Snack			X		X	\$	=	\$0.00	
Delivery Charge (if applicable)					X	Daily Charge			
						\$	=	\$0.00	
TOTAL ANNUAL COST									\$0.00
If the total annual cost is more than \$50,000, the CACFP sponsor may not sign the contract until it has been reviewed by NDE Nutrition Services.									

Table 2. PARTICIPATING CENTERS AND DELIVERY SCHEDULE (Attach additional page if necessary)						
CENTER NAME	ADDRESS	TYPE OF MEAL(S) Check all that apply	NUMBER OF DAILY MEALS	DELIVERY TIME RANGE	START DATE	END DATE
		<input type="checkbox"/> Breakfast <input type="checkbox"/> AM Snack <input type="checkbox"/> Lunch <input type="checkbox"/> PM Snack <input type="checkbox"/> Supper <input type="checkbox"/> EV Snack				
		<input type="checkbox"/> Breakfast <input type="checkbox"/> AM Snack <input type="checkbox"/> Lunch <input type="checkbox"/> PM Snack <input type="checkbox"/> Supper <input type="checkbox"/> EV Snack				
		<input type="checkbox"/> Breakfast <input type="checkbox"/> AM Snack <input type="checkbox"/> Lunch <input type="checkbox"/> PM Snack <input type="checkbox"/> Supper <input type="checkbox"/> EV Snack				

Section 5. Terms and Conditions

Paragraphs 5 through 11 require that an option be marked in the box or that the number of hours or days be filled in. Be sure that you provide information for all of these items.

Paragraph 24 (Pages 7-10)

- A. Equal Opportunity – This box must be checked for all contracts in excess of \$10,000.
- B. Clean Air and Water – This box must be checked for all contracts in excess of \$100,000.
- C. Energy Policy and Conservation Act - Institutions shall insert mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with P.L. 94-163, if applicable.
- D. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – If the contract exceeds \$100,000 per year, Attachment C must be signed and submitted.

Paragraph 27 (Page 9) Check this box if the CACFP institution operates under the auspices of a public agency which follows applicable State or local laws governing bid procedures.

Paragraph 28 (Page 9) Include any additional provisions stipulated by the Contractee and Contractor (attach additional pages, if necessary).

Federal Regulation References

OMB Super circular (Effective October 2015) - Title 2 Part 200 (2 CFR 200 – Sub-Part D)

Procurement standards maybe located at 2 CFR 200.317.

<http://www.ecfr.gov>

7 CFR 226.6 (standard contract)	1 (p. 212 of regulation)
7 CFR 226.20 (meal pattern requirements).....	3 (p. 249 of regulation)
7 CFR 226.21 (food service management companies)	10(p. 255 of regulation)
7 CFR 226.22 (procurement standards).....	11(p. 256 of regulation)

<http://www.ecfr.gov/cgi-bin/text-idx?SID=5ef13598561a9822ab3dbcf1e9f0d36&mc=true&node=sp2.1.200.d&rqn=div6>